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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/779,492

02/13/2004

Qiwei He

3074.NWN

8063

79525

7590

07/14/2011

Henkel Corporation

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EXAMINER

MULCAHY, PETER D

ART UNIT

PAPER NUMBER

1762

MAIL DATE

DELIVERY MODE

07/14/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/779,492	<b>Applicant(s)</b> HE ET AL.	
	<b>Examiner</b> Peter D. Mulcahy	<b>Art Unit</b> 1762	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 May 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-9,11-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-9,11-14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/13/11</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 5/13/11 was filed after the mailing date of the examiners answer on 11/5/10 but before the mailing of the final rejection set forth herein. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-9, 11-13 and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Malcolm et al. EP 0 368 141.

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5. Claim 1 recites an adhesive “comprising a radial block copolymer component comprising (PS-PI)<sub>n</sub>X wherein PS is polystyrene and PI is polyisoprene, X is the residue of a multifunctional coupling agent used in the production of the radial block copolymer, and n is equal to or greater than 3 and represents the number of PS-PI arms appended to X, and wherein the styrene content of the radial block copolymer is from 25 wt % to about 50 wt % a linear triblock copolymer, a tackifying resin, and, a liquid plasticizer, wherein, based on the weight of the adhesive composition, the said radial block copolymer component is present in amounts of less than 15 wt %, the linear triblock is present in amounts up to about 20 wt %, the tackifying resin is present in amounts of from about 30 to about 70 wt %, and the plasticizer is present in amounts of from about 10 wt % to about 20 wt %, said adhesive being suitable for use as an elastic attachment adhesive.” Claim 17 is directed to an adhesive having defined lower limits of the claimed components. Claims 1 and 17 are understood to be generally of the same scope.

6. The cited Malcolm patent teaches a radial block copolymer component comprising (PS-PI)<sub>n</sub>X wherein PS is polystyrene and PI is polyisoprene, X is the residue of a multifunctional coupling agent used in the production of the radial block copolymer, and n is equal to or greater than 3 and represents the number of PS-PI arms appended to X, and wherein the styrene content of the radial block copolymer is from 25 wt % to about 50 wt % at page 4 lines 42 to page 5 line 11.

7. A linear triblock copolymer as claimed is disclosed at page 5 lines 12-18.

8. A tackifying resin as claimed is discussed at page 5 lines 30+.

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9. A liquid plasticizer is disclosed at page 6 lines 10-18.
10. Table 1 at page 6 lines 31-43 is seen to provide an anticipatory teaching of the claimed components, wherein, based on the weight of the adhesive composition, the said radial block copolymer component is present in amounts of less than 15 wt %, the linear triblock is present in amounts up to about 20 wt %, the tackifying resin is present in amounts of from about 30 to about 70 wt %, and the plasticizer is present in amounts of from about 10 wt % to about 20 wt %,
11. Said adhesive being suitable for use as an elastic attachment adhesive is stated in the abstract as well as in the "Field of the Invention" at page 2 lines 1+. Each of the claimed elements is anticipated and the claims are not novel.
12. The limitations of claims 2-4, 6 and 7 are directed to the preferred species of radial block polymer. The preferred specie of radial block for the claimed invention is represented by the Kraton 1184, see the specification at page 11 line 22. The Malcolm patent identifies the Kraton 1184 as the preferred specie of radial block polymer at page 4 line 8. As such, these claimed limitations are anticipated by the Kraton 1184 polymer.
13. Claim 8 further limits the claim by incorporation of a wax. Malcolm teaches waxes at page 6 lines 26-27 and Table 1. This is seen as an anticipatory teaching.
14. Claims 9 and 11-13 are directed to the generic article and the preferred specie of article being a diaper. Diaper articles art anticipated by this patent at page 2 line 6 where the disposable diaper is discussed as the preferred utility of the articles formed using the adhesive.

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15. In the event one would not immediately envisage the claimed invention as outlined supra, the claimed invention is rendered obvious from the patent disclosure.

Table 1 at page 6 clearly suggests the claimed combination. This clear suggestion is sufficient so as to motivate one of ordinary skill in the art to formulate the claimed adhesive and as such, the claims are rendered prima facie obvious.

16. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malcolm et al. EP 0 368 141.

17. These claims further limit the invention by limiting the substrate to polyurethane fibers.

18. Malcolm discusses the substrates at page 8 lines 26+. The claimed polyurethane fiber substrate is taught at line 31. This is not seen to be an anticipatory teaching because the polyurethane is disclosed within a list of suitable substrates and one must select the species from the list. One is motivated to select the polyurethane from the list because the patent directly instructs one to do so. As such the claims are rendered prima facie obvious.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy whose telephone number is (571)272-1107. The examiner can normally be reached on Mon.-Fri. 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter D. Mulcahy/  
Primary Examiner, Art Unit 1762

/DAVID W WU/

Supervisory Patent Examiner, Art Unit 1762

/Gregory L Mills/

Supervisory Patent Examiner, Art Unit 1700

Director's Designee; reopening approved